

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

CHARLES SIMON,

Plaintiff,

v.

OPINION and ORDER

DEPARTMENT OF JUSTICE, DOE DEPUTY CLERKS
OF SUPREME COURT OF UNITED STATES,
ELIZABETH B. PRELOGAR, STEVE SCHWALB,
FEDERAL PRISON INDUSTRIES, INC.,

23-cv-178-jdp

Defendants.

In May 2022, I dismissed on claim- and issue-preclusion grounds plaintiff Charles Simon's lawsuit challenging the amount of a monthly compensation award he received in 1994 under the Inmate Accident Compensation Act for a back injury he sustained while incarcerated at FCI-Oxford and challenging the termination of that award in 2018. *Simon v. Dep't of Just.*, No. 22-cv-261-jdp, 2022 WL 1538722, at *1 (W.D. Wis. May 16, 2022). Simon lost his appeal. *Simon v. United States Dep't of Just.*, No. 22-1996, 2022 WL 4104027, at *1 (7th Cir. Sept. 8, 2022). And the United States Supreme Court denied his petition for certiorari and request for a rehearing. *Simon v. Dep't of Just.*, 143 S. Ct. 536 (2022), *reh'g denied*, 143 S. Ct. 852 (2023).

Now Simon has filed a new lawsuit suing the Department of Justice, the solicitor general, and clerks of the Supreme Court for discriminating against him as a pro se litigant by violating various procedural rules in the Supreme Court, including disregarding one of his filings and failing to file a response brief against him. Although Simon is no longer a prisoner and he has fully prepaid the filing fee for this action, this court has the inherent authority to screen and dismiss the case sua sponte. *See Mallard v. U.S. Dist. Ct.*, 490 U.S. 296, 307–08

(1989) (in forma pauperis statute “authorizes courts to dismiss a ‘frivolous or malicious’ action, but there is little doubt they would have power to do so even in the absence of this statutory provision.”); *Rowe v. Shake*, 196 F.3d 778, 783 (7th Cir. 1999) (“district courts have the power to screen complaints filed by all litigants, prisoners and non-prisoners alike, regardless of fee status.”).

Simon doesn’t explain why this court is the proper venue for such a lawsuit, but in any event I will dismiss it as frivolous. Simon states in part that he wishes to sue defendants under 42 U.S.C. § 1983, but that statute does not apply to federal agencies or employees. Nor is there a plausible claim under *Bivens v. Six Unknown Agents of the Federal Bureau of Narcotics*, 403 U.S. 388 (1971). *See Egbert v. Boule*, 142 S. Ct. 1793, 1803–04 (2022) (expanding *Bivens* to a new context is now a “disfavored judicial activity”: the Supreme Court has concluded that federal courts should not expand *Bivens* actions to reach “new contexts” unless “special factors” counsel otherwise). And more generally, this court is not a venue to appeal rulings of the Supreme Court. If he believes that there have been procedural errors in his proceedings in that court, he should file a motion there.

ORDER

IT IS ORDERED that:

1. This case is DISMISSED.
2. The clerk of court is directed to enter judgment accordingly and close this case.

Entered April 4, 2023.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge